Best Practice Guidelines for the Assessment of African American Students' Cognitive Processes

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Disproportional Identification

It is getting close to 40 years after the original Larry P decision…

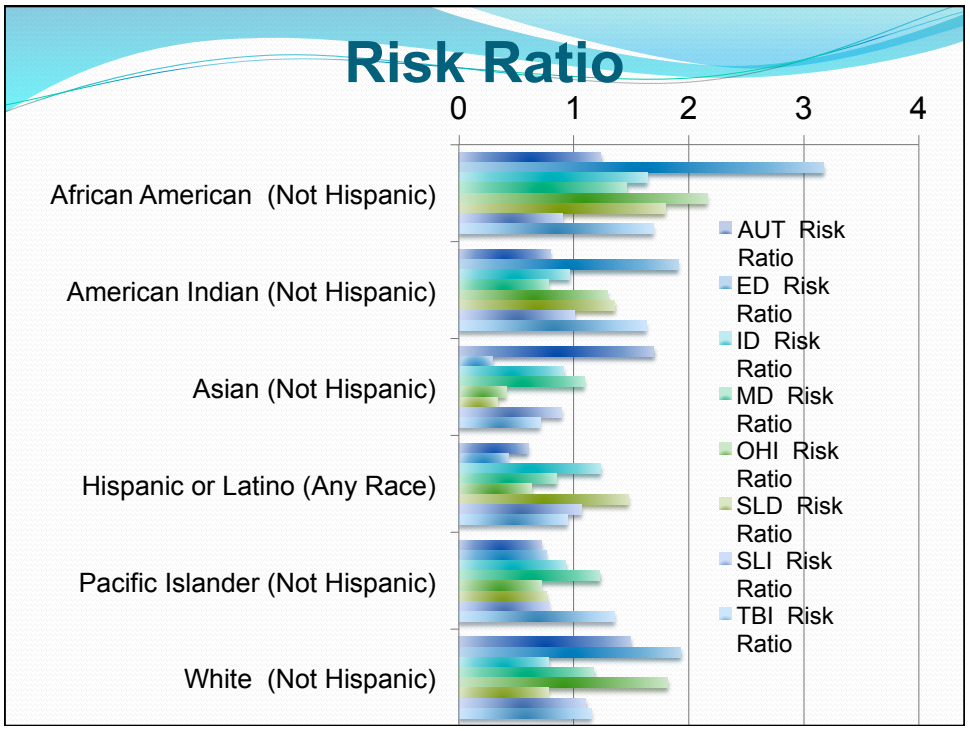
How do you think California is doing?

For this we'll need data…

Easily obtainable from…

http://data1.cde.ca.gov/dataquest

Data is from 2013-14



What does this chart reflect?

- The Risk Ratio addresses the question: What is the risk for a given ethnic group receiving special education services in a specific category in California, compared to the risk for all other ethnic groups receiving special education services in that category in the state.

So for African American Students we can address the question…

- What is the risk for African Americans receiving special education services for ID, compared to the risk for all other ethnic groups receiving special education services for ID.

African Americans are at risk of being identified:

- AUT 1.23 times other ethnicities
- ED, 3.17 times other ethnicities
- ID, 1.64 times other ethnicities
- MD, 1.46 time other ethnicities
- OHI, 2.16 times other ethnicities
- SLD, 1.80 times other ethnicities
- SLI, .90 times other ethnicities
- TBI, 1.69 times other ethnicities

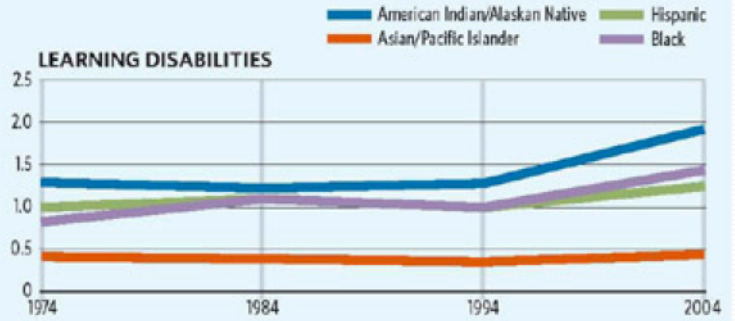
So using IQ testing is vindicated because we are still disproportionate right?

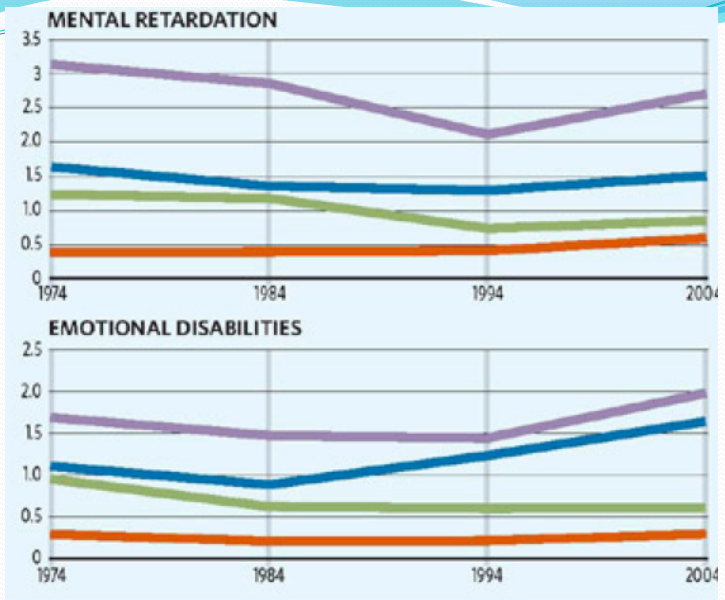
The answer is No.

Figure 1

Relative Risk of Identification by Category and Race Compared to White Students Nationally

Adapted from Donovan and Cross (2002) and USDOE (2009).





- Compared to national data above, identification of SLD for African American Students is about the same (1.4). This doesn't make it right, it just means we are no different than the other states that use intelligence tests.
- However, for ID, CA risk ratio is much lower. Put in a different way, an African American Student is about twice as likely to be identified as ID outside of CA than inside.

- So just to be clear, the data supports the fact that states using current, more statistically sound, intelligence tests, post Larry P., disproportionately identifies African American Students as ID far more than California does.

Disproportionality is a National Problem

Even while group differences have been shrinking.

- The "racial" IQ gap has been shrinking. "Over the last 30 years, the measured I.Q. difference between black and white 12-year-olds has dropped from 15 points to 9.5 points."

Nisbett, R. E. (2009) *Intelligence and how to get it. W.W. Norton & Company*

Wait a minute…

If the difference is shrinking shouldn't disproportionality be decreasing?

Wait there is more!

Predictive Validity Weakening?

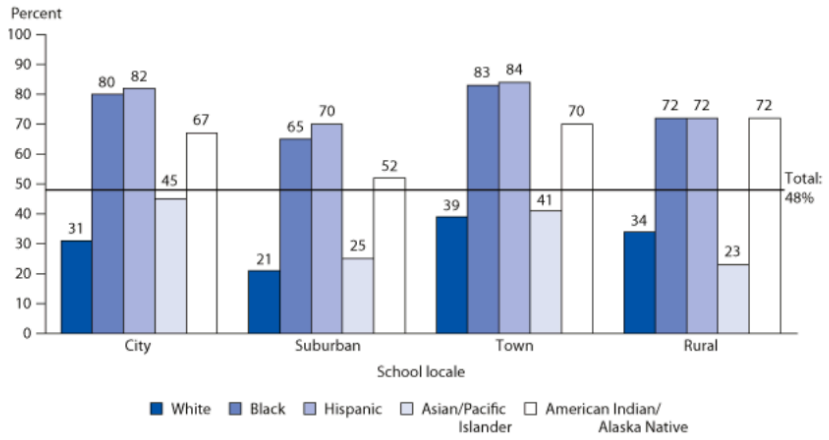
- When I was in grad school in the early 90's, we read papers citing studies where intelligence tests were correlated with achievement at about r = .70. Squaring r we found that about 49% of the variance in achievement tests is accounted for by one's performance on an intelligence test.
- APA's 1996 report stated that *g* correlated with school grades r = .50, which was about the same for social status (25% of variance) and with income (r = .41, 16.67% of variance).

Ulrich Neisser, et al. "Intelligence: Knowns and Unknowns," *American Psychologist* 51(2) 1996:77-101.

What factor may be accounting for this weakening trend?

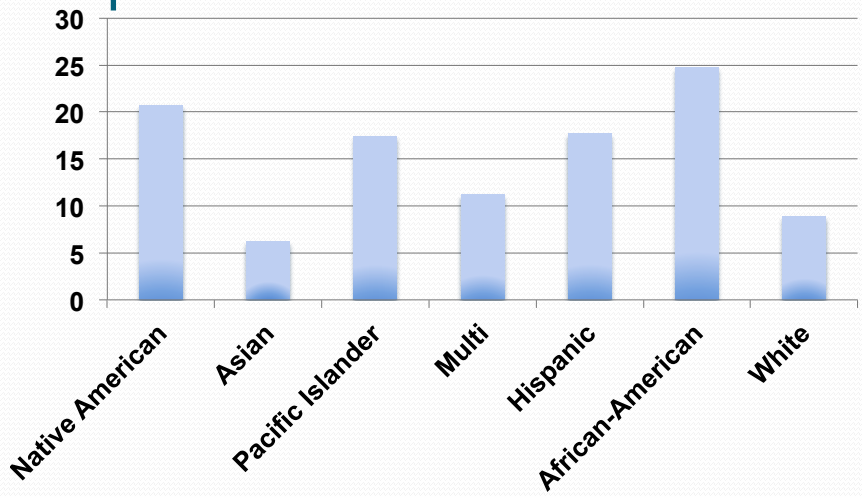
- Poverty. There is a growing amount of research that demonstrates this link.
- Look at the following two graphs.
- One is for free and reduced lunch by ethnicity and the other is drop out rate.
- See a relationship?

Figure 7.5a. Percentage of public school 4th-graders eligible for free or reduced-price lunch, by school locale and race/ethnicity: 2009



NOTE: To be eligible for the National School Lunch Program, a student must be from a household with an income at or below 185 percent of the poverty level for reduced-price lunch or at or below 130 percent of the poverty level for free lunch. Race categories exclude persons of Hispanic ethnicity. For definitions of locales, see *Appendix A: Guide to Sources.*
SOURCE: U.S. Department of Education, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2009 Mathematics Assessment, NAEP Data Explorer.

Dropout Rate in California 2010



http://data1.cde.ca.gov/dataquest/cohortrates/GradRates.aspx?cds=00000000000000&TheYear=2010-11&Agg=T&Topic=Dropouts&RC=State&SubGroup=Ethnic/Racial

Disproportionality is not just a Special Education Issue

What Does the Law Say?

Given all of this information, what is expected of us when we conduct an assessment on an African American student for special education?

Specific Learning Disability (SLD) California Ed. Code 30 EC 56337

"(a) A specific learning disability, as defined in Section 1401(30) of Title 20 of the United States Code, means a disorder in one or more of the basic psychological processes involved in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or perform mathematical calculations.

Specific Learning Disability (SLD) Cont.

"The term "specific learning disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage."

Specific Learning Disability (SLD) Cont.

"(b) Notwithstanding any other law and pursuant to Section 1414(b) (6) of Title 20 of the United States Code, in determining whether a pupil has a specific learning disability as defined in subdivision (a), a local educational agency is not required to take into consideration whether a pupil has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning."

Specific Learning Disability (SLD) Cont.

"(c) In determining whether a pupil has a specific learning disability, a local educational agency may use a process that determines if the pupil responds to scientific, research-based intervention as a part of the assessment procedures described in Section 1414(b) (2) and (3) of Title 20 of the United States Code and covered in Sections 300.307 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations."

Wait a minute…
If the discrepancy model isn't in CA Ed Code where is it?

California Code of Regulations Title 5 Sec 3030

This part of the CCR's has gone through revision this year (2014).

- Your SELPA and district should be aware of the change and it is provided for you.
- This reads a little than what you used to (first off, its not 3030 (j) anymore but 3030 (10)).
- The discrepancy model, in a slightly diminished capacity, is still there, but so are alternative means, as before.

CCR Title 5 Sec 3030

- (10) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities including association, conceptualization and expression.

- (A) Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(B) In determining whether a pupil has a specific learning disability, **the public agency may consider whether a pupil has a severe discrepancy between intellectual ability and achievement** in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:

1. When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests.

A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

- 2. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.

- 3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:

- (i) Data obtained from standardized assessment instruments;
- (ii) Information provided by the parent;
- (iii) Information provided by the pupil's present teacher;
- (iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
- (v) Consideration of the pupil's age, particularly for young children; and
- (vi) Any additional relevant information.

Districts don't have to use the Discrepancy Model

As you read, districts, "In determining whether a pupil has a specific learning disability, the public agency **may consider** whether a pupil has a severe discrepancy between intellectual ability and achievement" it does not say must. 3030 10 B 2 and B 3 above briefly describe the alternatives.

The following Code of Federal Regulations better explains them. It is where response to intervention and pattern of processing strengths and weaknesses are mentioned.

34 CFR§ 300.309 Determining the existence of a specific learning disability

"(a) The group described in § 300.306 may determine that a child has a specific learning disability, as defined in § 300.8(c) (10), if

(1) **The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards**:"

"(i) Oral expression. (ii) Listening comprehension. (iii) Written expression. (iv) Basic reading skill.(v) Reading fluency skills. (vi) Reading comprehension. (vii) Mathematics calculation. (viii) Mathematics problem solving.

(2)

(i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or

(ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with Sec. Sec. 300.304 and 300.305; and

(3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—

(i) A visual, hearing, or motor disability;

(ii) Mental retardation;

(iii) Emotional disturbance;

(iv) Cultural factors;

(v) Environmental or economic disadvantage; or

(vi) Limited English proficiency.

"(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306

(1) Data that demonstrate that prior to, or as a part of, the referral process, **the child was provided appropriate instruction in regular education settings, delivered by qualified personnel**; and

(2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

(c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the time frames described in §§300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in § 300.306(a)(1)

(1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and

(2) Whenever a child is referred for an evaluation. (Authority: 20 U.S.C. 1221e–3; 1401(30); 1414(b)(6))"

Where does Larry P. fit in?

Given all of this information, what is expected of us when we conduct an assessment on an African American Student for Special Education?

Courts and the CDE

- Larry P.
  - 1979 Court ruled ban on IQ tests to place students in EMR classes or “substantial” equivalent
  - 1986 Decision modified to expand previous ruling to ban use of IQ testing for all African American students for special education

Courts and the CDE

- Crawford v. Honig (1992)
  - District court summary vacated the '86 modification to the Larry P. injunction
  - So for a brief period we were in limbo, because there were no more EMR classes in California so it appeared that going back to the original Larry P. ruling was moot. That is until…

CDE in 1994 issued a Legal Advisory

Stated that regardless of the Crawford v Honig decision, districts should use in lieu of IQ tests, alternative means of assessment to determine identification and placement. "Such techniques should include, and would not be limited to:

- Assessments of the pupil's personal history and development
- Adaptive behavior
- Classroom performance
- Academic achievement
- Evaluative instruments designed to point out specific information relative to a pupil's abilities and inabilities in specific skill areas"

There is no Banned Test List

Contrary to popular belief, since the 1994 Memorandum, there has not been an updated list.

1997 CDE Legal Memorandum

"**No other list of tests** has been recognized by the Department of Education for the purpose of finding school districts out of compliance in testing African-American students for special education…the original Larry P. decision **was not limited to a specific set or sets of standardized intelligences tests**, school districts should be advised **that any standardized measure of intelligence should not be used with African-American students** until such time as they are validated as unbiased by the State Board of Education and approved by the court. There should be no "on-the-spot" judgments that result in finding districts out of compliance for using tests that are not listed."

Why No Updated list?

The CDE is placing its trust in school psychologists to be knowledgeable and ethical in their practice in following this rule. Who better than school psychologists to know what intelligence is, right?

Isn't there a difference between measures of general ability, cogntiive ability, tests of intelligence and IQ?

- No, they are synonymous. In the literature they are used interchangeably.

- "This section contains a review of seven instruments that use a nonverbal format **to measure intelligence…The tests reviewed were the: Comprehensive Test of Nonverbal Intelligence (CTONI); General Ability Measure for Adults (GAMA); Leiter-R; Naglieri Nonverbal Ability Tests – Individual Administration (NNAT-I); the Nonverbal Scales of the Stanford Binet Fifth Edition; Test of Nonverbal Intelligence – Third Edition; and the Universal Nonverbal Intelligence Test (UNIT).**"
- Chapter from D. P. Flanagan & P. L. Harrison (Eds.) *Contemporary intellectual assessment, third edition: theories, tests, and issues*

Test makers want you to think there is, but look carefully.

DAS

- "**The DAS estimates the *g* factor only by those subtests that are the best estimators of *g***, in contrast to virtually all other cognitive batteries. **The DAS does not refer to *g* by the terms intelligence and IQ, but by the descriptive term General Conceptual Ability (GCA).**" Elliott (2005)

CAS

- "The Planning, Attention, Simultaneous, and Successive (PASS; Naglieri & Das, 1997) theory is rooted in the work of A. R. Luria (1966, 1973a, 1973b, 1980) on the functional aspects of brain structures. We used Luria's work **as a blueprint for defining the important components of human intelligence** (Das, Naglieri, & Kirby, 1994).

Just to confuse you further… From the FAQ page Pearson Assessments regarding DAS-II

"Why is the DAS-II not an IQ test?

The DAS–II measures a more specific and narrower domain of human cognition. Although DAS–II provides a General Conceptual Ability composite, its primary purpose is as a tool for identifying and understanding the strengths and weaknesses in individuals. When describing an individual's performance, it is recommended that you primarily focus on patterns of cognitive strengths and weaknesses, **rather than the GCA score**."

http://www.pearsonclinical.com/education/products/100000468/differential-ability-scales-ii-das-ii.html#tab-faq

- So basically even though the DAS-II gives you an overall general conceptual ability score AKA an IQ score, don't look at that…
- Unless…

"May I use DAS-II to diagnose intellectual disability?

Although the design structure of the DAS–II facilitates the assessment of children of very low ability, the most accurate diagnosis derives from multiple data sources, including assessment of the individual's functioning at home, at school, and in the community. The DSM-5 and American Association on Intellectual Disabilities have defined diagnosing intellectual disability as significantly low performance on general cognitive ability with limited adaptive behavior ability. **This pairing of the Adaptive Behavior Assessment System–Second Edition (ABAS–II) with the DAS–II provides information on cognitive and adaptive functioning, both of which are required for the proper diagnosis of intellectual disability. In addition, assessment of cognitive functioning provides useful information for placement and training decisions**."

http://www.pearsonclinical.com/education/products/100000468/differential-ability-scales-ii-das-ii.html#tab-faq

- So when looking at ID the DAS-II can be used as a cognitive ability test aka standardized test of intelligence. Isn't there a difference? If the DAS-II people think so, because the following slide is what the DSM-5 uses.

DSM-5

- **Intellectual Disability (Intellectual Developmental Disorder)**
- Intellectual disability (intellectual developmental disorder) is a disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains. The following three criteria must be met:
- A. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, **standardized intelligence testing.**

- As most recently as Dec. 13, 2011 a school district argued in front of an administrative law judge that the Naglieri Nonverbal Ability Test NNAT isn't a test of intelligence and won.

- "District's witnesses persuasively established that the NNAT is a brief nonverbal assessment instrument designed to assess general abilities and does not result in an I.Q score."
- That the NNAT, "was designed by the publisher to meet the requirements of the Larry P. injunction and does not result in an I.Q. score when conducted."
- That the district's special education administrator who, "is familiar with the NNAT and testified that many districts use the NNAT as an alternative assessment tool to evaluate the cognitive ability for African-American students."

Why do I believe it is wrong when the administrative law judge says it's ok?

From Page 2 of the NNAT Manual (2000):

- "The concept of *general ability*, as measured by a traditional IQ test such as the Wechsler scales, has had a long and successful history in psychology and education - so much so that the tests have been used to define intelligence…
- The greatest advantage of a nonverbal test of general ability is that it measures intelligence without using test questions that are unduly reliant on verbal skills…"

Furthermore Bracken and Naglieri (2003) and Naglieri (2003a, 2003b, 2008a, 2008b) have clarified that the term nonverbal refers to the content of the test, not the type of ability, and that the goal is to measure general ability.

But if the Judge says it's OK, it's OK Right?

No. When case law does not follow the CDE Legal Memorandum, it doesn't give us license to break the rules.

Remember the 1997 Memorandum states, "until such time as they are validated as unbiased by the State Board of Education and approved by the court." That has not happened.

But we've been through a Special Education Self Review (SESR) or Verification Review (VR) by the state and they didn't say anything about the DAS II etc…

"There should be no "on-the-spot" judgments that result in finding districts out of compliance for using tests that are not listed." -1997 CDE Memorandum

In this area we are to police ourselves, until such a time as the courts and the state department of education agree that a specific test can be used.

So what do we do in the mean time?

How are we to know what we can and can't use?

We think Riverside County SELPA has a very good way to make this determination.

Riverside County SELPA Guidelines for Assessing African-American Students

In making a determination of whether a test falls under the IQ test ban for African-American student one should consider:

- (a) Is the test standardized and does it purport to measure intelligence (cognition, mental ability or aptitude)?
- (b) Are the test results reported in the form of IQ or mental age?
- (c) Does evidence of the (construct) validity of the test rely on correlations with IQ tests?

What if we just don't report the standard score?

- No measures of intelligence, means no measures, period.
- Nothing from these tests: No age equivalents, No grade equivalents, No percentile ranks.
- If a competent school psychologist can figure out the standard scores from that information don't use it.
- And yes, the subtests of an intelligence test represent measures of intelligence.

What about similar tests? Digit Span or some form of it can be found in tests of intelligence or Memory etc.?

- The TAPS-3 and CTOPP's, as well as all tests of memory have some form of digit span. As long as you are interpreting the scores within the construct of its intended use, you are OK.
- However, do not use similar subtest from intelligence test batteries as the theory and co-norming to other subtests are designed to or imply larger, boarder intellectual capabilities i.e. "*g*" or an equivalent.

What about children of mixed ethnicity? Can you use IQ tests on them?

The answer is a qualified "maybe." Parents can identify the racial identification of their children. If they designate their child as other than African American, you may be able to conduct the assessment, and may be required (depending upon parent request) to do so, as the child is not by parent report African American.

If the box is left blank by the parent, according to federal regulations the school clerk is authorized to fill it in.

What do you if an African American student comes to your district with an IQ score in their File?

- The CDE issued a directive (Campbell, 1987):

"a qualified professional should identify appropriate data to be copied and purged of all IQ scores or references to information from IQ tests."

The term purged has been interpreted as redacted (eliminating the reference by black pen making what is underneath unreadable).

See also, Student v. New Haven Unified Sch. Dist. (OAH 2007)

Now to the assessments themselves. What are we at the DCN using?

- It is not just one thing, a new test, a new protocol, or survey.
- It is a process. Much like what you are doing. A process that is as conscientiously, comprehensive as possible, culminating in the IEP team mapping out significant processing areas to determine if eligibility has been met or not. We call it The MATRIX.

Using the Matrix to determine SLD eligibility

- Per the Larry P Mandate, we can't use standardized tests of intelligence, so we can't use the discrepancy model
- The Matrix provides another method to determine SLD, a Processing Strengths and Weaknesses Model (PSW).
- The Matrix complements RtI and MTSS

Next…

- View Domain video
- Then View Procedural video
- Then try some of what you've learned and be ready to share at the training in a few weeks/days.

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